

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1074

AN ACT

AMENDING SECTIONS 41-1525, 41-1525.01, 42-12006 AND 42-15006, ARIZONA REVISED STATUTES; AMENDING LAWS 1996, CHAPTER 344, SECTION 12, AS AMENDED BY LAWS 2001, CHAPTER 370, SECTION 8; RELATING TO ENTERPRISE ZONES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1525, Arizona Revised Statutes, is amended to
3 read:

4 41-1525. Tax incentives; definitions

5 A. The owner of a business or an insurer located in an enterprise zone
6 before July 1, ~~2006~~ 2011 is eligible for an income tax credit under section
7 43-1074 or 43-1161 or a premium tax credit under section 20-224.03 for net
8 increases in qualified employment positions, except employment positions at a
9 zone location where more than ten per cent of the business conducted at the
10 location consists of retail sales of tangible personal property, measured
11 either by the number of employees assigned to retail sales or the square
12 footage of the facility used for retail sales activities at the location in
13 the zone. Retail sales and retail sales activities do not include:

14 1. Food and beverage for consumption on the premises solely by
15 employees and occasional guests of employees at the location.

16 2. Promotional products not available for sale and displaying the
17 company logo or trademark.

18 3. Products sold to company employees.

19 B. To qualify for a tax credit, the owner must:

20 1. Certify to the department of revenue or the department of
21 insurance, as applicable, on or before the due date of the tax return,
22 including any extensions for the year for which the credit is claimed, in a
23 form prescribed by the department of revenue including electronic media,
24 information that the department of revenue may require, including the
25 ownership interests of co-owners of the business if the business is a
26 partnership, limited liability company or an S corporation, and the following
27 information for each employee in the zone location:

28 (a) The date of initial employment.

29 (b) The number of hours worked during the year.

30 (c) Whether the position was full-time.

31 (d) The residence of the employee.

32 (e) Whether the residence was in or outside the zone.

33 (f) If the residence was in the zone, where in the zone it is located.

34 (g) The employee's annual compensation.

35 (h) The total cost of health insurance for the employee and the cost
36 paid by the employer.

37 (i) If the employee had been previously employed, the last date of
38 previous employment.

39 2. Report and certify to the department of commerce the following
40 information, and provide supporting documentation, on a form and in a manner
41 approved by the department of commerce and, as specified in subsection C of
42 this section, for each year in which the taxpayer earned and claimed or used
43 credits or is carrying forward amounts from previously earned and claimed
44 credits:

1 (a) The business name and mailing address and any other contact
2 information requested by the department of commerce.

3 (b) The business location and the name of the zone in which the
4 business is located.

5 (c) The average hourly wage and the total amount of compensation paid
6 to employees qualified for the credit and for all employees at the zone
7 location.

8 (d) The total number of qualified employment positions and the amount
9 of income tax or premium tax credits qualified for in the tax year.

10 (e) The estimated amount of tax credits to be used in the tax year to
11 offset tax liability.

12 (f) The estimated amount of tax credits to be available for
13 carryforward in the tax year and the tax year in which the credits expire.

14 (g) The number of jobs and the amount of credits earned and claimed on
15 the prior year's income tax or insurance premium tax returns.

16 (h) The amount of credits used to offset tax liabilities on the prior
17 year's income tax or insurance premium tax return.

18 (i) The amount of credits available for carryforward as reported on
19 the prior year's tax return and the tax year the credits expire.

20 (j) Capital investment made in the zone during the tax year and the
21 preceding tax year.

22 (k) That each qualified employment position meets all of the following
23 requirements:

24 (i) The position is at least one thousand seven hundred fifty hours
25 per year of full-time permanent employment.

26 (ii) All credits that are being claimed are for wages for job duties
27 performed **PRIMARILY** at the zone locations of the business.

28 (iii) The employment includes health insurance coverage for the
29 employee for which the employer pays at least fifty per cent of the premium
30 or membership cost. If the taxpayer is self-insured, the employer pays at
31 least fifty per cent of a predetermined fixed cost per employee for an
32 insurance program that is payable whether or not the employee has filed
33 claims.

34 (iv) The employer pays compensation at least equal to the wage offer
35 by county as computed annually by the department of economic security
36 research administration division.

37 (l) That the only retail **SALES** activities engaged in at the zone
38 location were as specified in subsection A of this section.

39 (m) Other information necessary for the management and reporting of
40 the incentives under this section.

41 3. For any year in which the taxpayer is claiming first year credits,
42 report and certify the following additional information and provide
43 supporting documentation to the department of commerce on a form and in a

1 manner approved by the department, and as specified in subsection C of this
2 section:

3 (a) That thirty-five per cent of the employees with respect to whom a
4 credit is claimed for the first year of employment resided on the date of
5 employment in an enterprise zone that is located in the same county in which
6 the business is located.

7 (b) That the increase in the number of qualified employment positions
8 for which credit is sought is the least of:

9 (i) The total number of filled qualified employment positions created
10 at the zone location during the tax year.

11 (ii) The difference between the average number of full-time employees
12 at a zone location in the current tax year and the average number of
13 full-time employees during the immediately preceding tax year.

14 (iii) Two hundred qualified employment positions per taxpayer each
15 year.

16 (c) THAT all employees filling a qualified employment position were
17 employed for at least ninety days during the first taxable year.

18 (d) THAT none of the employees filling qualified employment positions
19 were employed by the taxpayer during the twelve months before the current
20 date of hire.

21 (e) THAT all employees for whom second and third year credits are
22 claimed are in qualified employment positions for which first year credits
23 were allowed and claimed by the taxpayer on the original first and second
24 year tax returns. For the purposes of this subsection, the requirement to
25 claim the credit on the original tax return does not apply to qualified
26 employment positions created before January 1, 2002 and were certified to the
27 department of commerce.

28 (f) THAT all employees for whom credits are taken performed their job
29 duties primarily at the zone locations of the business.

30 C. To qualify for first year credits, the report and certification
31 prescribed by subsection B, paragraphs 2 and 3 of this section must be filed
32 with the department of commerce by the earlier of six months after the end of
33 the tax year in which the qualified employment positions were created or by
34 the date the tax return is filed for the tax year in which the qualified
35 employment positions were created. To qualify for second year credits, the
36 report and certification prescribed by subsection B, paragraph 2 of this
37 section must be filed with the department of commerce by the earlier of six
38 months after the end of the taxable year or the date the tax return is filed
39 for the tax year in which the second year credits are allowable. To qualify
40 for third year credits, the report and certification prescribed by
41 subsection B, paragraph 2 of this section must be filed with the department
42 of commerce by the earlier of six months after the end of the tax year or the
43 date the tax return is filed for the tax year in which the third year credits
44 are allowable.

1 D. Any information submitted to the department of commerce under
2 subsection B, paragraph 2, subdivisions (e) through (i) of this section is
3 exempt from the provisions of title 39, chapter 1, article 2 and considered
4 to be confidential and is not subject to disclosure except:

5 1. To the extent that the person or organization that provided the
6 information consents to the disclosure.

7 2. To the department of revenue for use in tax administration.

8 E. Real and personal property within an enterprise zone which is owned
9 or used by a small manufacturing business that is certified by the department
10 pursuant to section 41-1525.01 before July 1, ~~2006~~ 2011 shall be assessed as
11 class six property as provided by section 42-12006.

12 F. Documents filed with the department of commerce, the department of
13 insurance and the department of revenue under subsection B of this section
14 shall contain either a sworn statement or certification, signed by an officer
15 of the company under penalty of perjury, that the information contained is
16 true and correct according to the best belief and knowledge of the person
17 submitting the information after a reasonable investigation of the facts. If
18 the document contains information that is materially false, the taxpayer is
19 ineligible for the tax incentives under subsection A of this section and is
20 subject to recovery of the amount of tax incentives allowed in preceding
21 taxable years based on the false information, plus penalties and interest.

22 G. The department of commerce may make site visits to a taxpayer's
23 facilities if it is necessary to further document or clarify reported
24 information. The taxpayer must freely provide the access.

25 H. The department by rule may prescribe additional reporting
26 requirements for taxpayers who claim tax benefits pursuant to this section.

27 I. For the purposes of this section:

28 1. "Assigned to retail" means working more than twenty-five per cent
29 of an employee's time in one or more retail sales activities.

30 2. "Retail sales" means the sale of tangible personal property to an
31 ultimate consumer.

32 3. "Retail sales activities" means all activities persons operating a
33 retail business normally engage in, including taking orders, filling orders,
34 billing orders, receiving and processing payment and shipping, stocking and
35 delivering tangible personal property to the ultimate consumer, except drop
36 shipments by a company acting on behalf of an unrelated company that has made
37 a sale to a final consumer.

38 4. "Zone location" means a single parcel or contiguous parcels of
39 owned or leased land, the structures and personal property contained on the
40 land or any part of the structures occupied by a taxpayer.

1 (d) The assessor's parcel number of real property to which class six
2 assessment classification will apply.

3 (e) If available, the assessor's account number for personal property
4 to which class six assessment classification will apply.

5 (f) For the zone location, the gross receipts, gross payroll and
6 average hourly wage paid to employees for the preceding taxable year.

7 (g) A statement of the ownership and description of operations of the
8 zone business.

9 (h) Documentation of the required investment in fixed assets that
10 identifies the fixed assets and establishes the cost of the fixed assets and
11 the time of investment.

12 (i) Documentation that establishes the type and amount of
13 manufacturing **OR PRINTING** activity conducted at the zone location.

14 (j) Ownership and full cash value of real and personal property to be
15 certified.

16 (k) Other information necessary for the management and reporting of
17 this program as determined by the department.

18 B. The department shall not certify any business for qualification for
19 property tax incentives after June 30, ~~2006~~ 2011. However, certification
20 under this section is valid for five years subject to annual recertification
21 regardless of whether under changing circumstances the business grows beyond
22 ninety-nine full-time employees at the zone location or gross annual receipts
23 of more than four million dollars and regardless of whether the enterprise
24 zone continues in existence if it continues to meet the other eligibility
25 requirements.

26 C. In order to be annually recertified pursuant to subsection B of
27 this section, a small manufacturing **OR SMALL COMMERCIAL PRINTING** business
28 must continue to meet all the eligibility requirements of this section and
29 must annually report the following and provide supporting documentation to
30 the department of commerce on a form and in a manner approved by the
31 department:

32 1. Information required by subsection A, paragraph 2, subdivisions
33 (a), (b), (d), (e), (f), (i), (j) and (k) of this section.

34 2. Changes in location, ownership and operations of the business in
35 the immediately preceding year.

36 3. The average number of full-time employees at the zone location for
37 the immediately preceding year.

38 D. To qualify for classification as class six property for tax
39 purposes, **THE CERTIFIED BUSINESS MUST SUBMIT A COPY OF** the department's
40 initial certification, and each annual recertification, with a written
41 request to reclassify the property ~~must be submitted~~ to the county assessor
42 of the county in which the property is located by December 10 each year.

43 E. A manufacturer **OR COMMERCIAL PRINTER** shall submit its application
44 for initial certification or annual recertification to the department not

1 later than October 1 of each year. The Department shall notify the
2 appropriate county assessors of all qualified enterprise zone properties
3 located within their county not later than December 1 of each year.

4 F. If a manufacturer OR COMMERCIAL PRINTER moves from the originally
5 certified location, it loses its eligibility. The manufacturer OR COMMERCIAL
6 PRINTER may apply for certification at a new zone location for the remainder
7 of its five years if it meets the minimum investment requirements in fixed
8 assets that were not moved from the prior zone location, meets all other
9 eligibility requirements of this section and has not reached the five year
10 eligibility limit.

11 G. Once a manufacturer OR COMMERCIAL PRINTER establishes the basis for
12 eligibility and the department certifies the manufacturer OR COMMERCIAL
13 PRINTER, the business may change its basis of eligibility during the four
14 remaining years of potential eligibility as long as the manufacturer OR
15 COMMERCIAL PRINTER meets the requirements for the new basis of eligibility.

16 H. If a certified manufacturing OR COMMERCIAL PRINTER business is
17 purchased by another entity or changes BY MORE THAN TWENTY PER CENT OF THE
18 ownership INTEREST through reorganization, stock purchase or merger, the
19 certification is terminated. The new manufacturer OR SMALL COMMERCIAL
20 PRINTER may apply for certification according to eligibility requirements of
21 this section.

22 I. A small business that was originally certified for a ten year
23 period of property reclassification loses eligibility for any year in which
24 the size limits are exceeded or the business is no longer independently owned
25 and operated.

26 J. The department of commerce shall notify the department of revenue
27 and the county assessor if a certified small manufacturing OR SMALL
28 COMMERCIAL PRINTING business closes, moves from the enterprise zone or fails
29 to maintain its eligibility, and the assessor shall make the appropriate
30 changes to the tax roll.

31 K. The department of commerce may make site visits to a taxpayer's
32 facilities if it is necessary to further document or clarify reported
33 information. The taxpayer must freely provide the access.

34 L. Documents filed with the department of commerce pursuant to this
35 section shall contain either a sworn statement or certification, signed by an
36 officer of the company under penalty of perjury, that the information
37 contained is true and correct according to the best belief and knowledge of
38 the person submitting the information after a reasonable investigation of the
39 facts. If the document contains information that is materially false, the
40 taxpayer is ineligible for the tax benefits under this section and is subject
41 to recovery of the amount of tax benefits allowed in preceding years based on
42 the false information, including penalties and interest.

43 M. The department by rule may prescribe additional reporting
44 requirements for persons who claim a tax benefit pursuant to this section.

1 N. For the purposes of this section:

2 1. "CLOSELY HELD" MEANS FIVE OR FEWER INDIVIDUALS OWN MORE THAN FIFTY
3 PER CENT OF THE OWNERSHIP INTEREST IN THE COMPANY, CORPORATION OR
4 PARTNERSHIP.

5 2. "COMMERCIAL PRINTING" MEANS PRODUCING PRINTED PRODUCT THROUGH A
6 LITHOGRAPHIC OR FLEXOGRAPHIC PROCESS, FROM MATERIAL CUT TO PRESS SIZE ON THE
7 PREMISES, TRANSFERRED WITH PRESSURE AND FINISHED WITH A PROCESS THAT MAY
8 INCLUDE SCORING, FOLDING, DIE CUTTING, GLUING, STAMPING, EMBOSsing OR
9 PACKAGING. COMMERCIAL PRINTING DOES NOT INCLUDE BUSINESSES REGULATED
10 PURSUANT TO SECTION 42-5065.

11 3. "FAMILY OWNED" MEANS MORE THAN FIFTY PER CENT OF THE OWNERSHIP
12 INTEREST IN THE COMPANY, CORPORATION OR PARTNERSHIP IS OWNED BY MEMBERS OF
13 THE SAME FAMILY.

14 ~~1.~~ 4. "Fixed assets" means property that is used in operating a
15 business, such as furniture, land, buildings and machinery, and that is not
16 ordinarily converted into cash after they are declared fixed assets.

17 5. "INDEPENDENTLY OWNED AND OPERATED" MEANS NOT MORE THAN FIFTY PER
18 CENT OF THE OWNERSHIP INTEREST IN THE SMALL MANUFACTURING OR SMALL COMMERCIAL
19 PRINTER BUSINESS IS HELD BY ANOTHER ENTITY UNLESS THE FINAL OWNERSHIP OF THE
20 ENTITY IS FAMILY OWNED OR CLOSELY HELD.

21 ~~2.~~ 6. "Manufacturing" means fabricating, producing or manufacturing
22 products, wares or articles for use from raw or prepared materials and
23 imparting to those materials new forms, qualities, properties and
24 combinations. Manufacturing does not include generating electricity at a
25 facility assessed pursuant to title 42, chapter 14, article 4.

26 ~~3.~~ 7. "Minority owned business" means an independently owned and
27 operated business of which a majority of the business is owned by African
28 Americans, persons of Hispanic or Latin American ancestry and persons of
29 Native American, Asian or other minority origin or descent.

30 8. "SMALL COMMERCIAL PRINTING BUSINESS" MEANS A MINORITY OWNED
31 BUSINESS OR A WOMAN OWNED BUSINESS OR A CONCERN, THAT IS INDEPENDENTLY OWNED
32 AND OPERATED AND EMPLOYS LESS THAN ONE HUNDRED FULL-TIME EMPLOYEES AT THE
33 LOCATION IN THE ENTERPRISE ZONE WHEN CERTIFIED BY THE DEPARTMENT OF COMMERCE
34 OR HAD GROSS ANNUAL RECEIPTS OF LESS THAN FOUR MILLION DOLLARS IN ITS LAST
35 FISCAL YEAR.

36 ~~4.~~ 9. "Small MANUFACTURING business" means a minority owned
37 business, ~~OR a woman owned business, or a concern including its affiliates,~~
38 that is independently owned and operated and employs less than one hundred
39 full-time employees at the location in the enterprise zone when certified by
40 the department of commerce or had gross annual receipts of less than four
41 million dollars in its last fiscal year.

42 ~~5.~~ 10. "Woman owned business" means an independently owned and
43 operated business of which a majority of the business is owned by one or more
44 women.

1 ~~6-~~ 11. "Zone location" has the same meaning prescribed in
2 section 41-1525.

3 Sec. 3. Section 42-12006, Arizona Revised Statutes, is amended to
4 read:

5 42-12006. Class six property

6 For purposes of taxation, class six is established consisting of:

7 1. Noncommercial historic property as defined in section 42-12101 and
8 valued at full cash value.

9 2. Real and personal property that is located within the area of a
10 foreign trade zone or subzone established under 19 United States Code section
11 81 and title 44, chapter 18, that is activated for foreign trade zone use by
12 the district director of the United States customs service pursuant to
13 19 Code of Federal Regulations section 146.6 and that is valued at full cash
14 value. Property that is classified under this paragraph shall not thereafter
15 be classified under paragraph 7 of this section.

16 3. Real and personal property and improvements that are located in a
17 military reuse zone that is established under title 41, chapter 10, article 3
18 and that is devoted to providing aviation or aerospace services or to
19 manufacturing, assembling or fabricating aviation or aerospace products,
20 valued at full cash value and subject to the following terms and conditions:

21 (a) Property may not be classified under this paragraph for more than
22 five tax years.

23 (b) Any new addition or improvement to property already classified
24 under this paragraph qualifies separately for classification under this
25 paragraph for not more than five tax years.

26 (c) If a military reuse zone is terminated, the property in that zone
27 that was previously classified under this paragraph shall be reclassified as
28 prescribed by this article.

29 (d) Property that is classified under this paragraph shall not
30 thereafter be classified under paragraph 4 or 7 of this section.

31 4. Real and personal property and improvements that are located in an
32 enterprise zone, that are owned or used by a small manufacturing **OR SMALL**
33 **COMMERCIAL PRINTER** business that is certified by the department of commerce
34 pursuant to section 41-1525.01 and that are valued at full cash value,
35 subject to the following terms and conditions:

36 (a) Property may not be classified under this paragraph for more than
37 five tax years.

38 (b) Property that is classified under this paragraph shall not
39 thereafter be classified under paragraph 3 or 7 of this section.

40 5. Real and personal property and improvements or a portion of such
41 property comprising a qualified environmental technology manufacturing,
42 producing or processing facility as described in section 41-1514.02, valued
43 at full cash value and subject to the following terms and conditions:

1 (a) Property shall be classified under this paragraph for twenty tax
2 years from the date placed in service.

3 (b) Any addition or improvement to property already classified under
4 this paragraph qualifies separately for classification under this subdivision
5 for an additional twenty tax years from the date placed in service.

6 (c) After revocation of certification under section 41-1514.02,
7 property that was previously classified under this paragraph shall be
8 reclassified as prescribed by this article.

9 (d) Property that is classified under this paragraph shall not
10 thereafter be classified under paragraph 7 of this section.

11 6. That portion of real and personal property that is used on or after
12 January 1, 1999 specifically and solely for remediation of the environment by
13 an action that has been determined to be reasonable and necessary to respond
14 to the release or threatened release of a hazardous substance by the
15 department of environmental quality pursuant to section 49-282.06 or pursuant
16 to its corrective action authority under rules adopted pursuant to
17 section 49-922, subsection B, paragraph 4 or by the United States
18 environmental protection agency pursuant to the national contingency plan (40
19 Code of Federal Regulations part 300) and that is valued at full cash value.
20 Property that is not being used specifically and solely for the remediation
21 objectives described in this paragraph shall not be classified under this
22 paragraph. For the purposes of this paragraph, "remediation of the
23 environment" means one or more of the following actions:

24 (a) Monitoring, assessing or evaluating the release or threatened
25 release.

26 (b) Excavating, removing, transporting, treating and disposing of
27 contaminated soil.

28 (c) Pumping and treating contaminated water.

29 (d) Treatment, containment or removal of contaminants in groundwater
30 or soil.

31 7. Real and personal property and improvements constructed or
32 installed from and after December 31, 2004 through December 31, 2010 and
33 owned by a qualified business under section 41-1516 and used solely for the
34 purpose of harvesting, transporting or the initial processing of qualifying
35 forest products removed from qualifying projects as defined in
36 section 41-1516. The classification under this paragraph is subject to the
37 following terms and conditions:

38 (a) Property may be initially classified under this paragraph only in
39 valuation years 2005 through 2010.

40 (b) Property may not be classified under this paragraph for more than
41 five years.

42 (c) Any new addition or improvement, constructed or installed from and
43 after December 31, 2004 through December 31, 2010, to property already

1 classified under this paragraph qualifies separately for classification and
2 assessment under this paragraph for not more than five years.

3 (d) Property that is classified under this paragraph shall not
4 thereafter be classified under paragraph 2, 3, 4 or 5 of this section.

5 Sec. 4. Section 42-15006, Arizona Revised Statutes, is amended to
6 read:

7 42-15006. Assessed valuation of class six property

8 The assessed valuation of class six property described in
9 section 42-12006 is based on the following percentages to the full cash value
10 or limited valuation of class six property, as applicable:

11 1. Property described in section 42-12006, paragraphs 1, 2, 3, 5, 6
12 and 7, five per cent.

13 2. Property described in section 42-12006, paragraph 4:

14 (a) For primary property tax purposes, five per cent.

15 (b) Except as provided in subdivision (c), for secondary property tax
16 purposes: ~~, twenty-five per cent.~~

17 (i) TWENTY-FIVE PER CENT THROUGH DECEMBER 31, 2006.

18 (ii) TWENTY-FOUR PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2006
19 THROUGH DECEMBER 31, 2007.

20 (iii) TWENTY-THREE AND ONE-HALF PER CENT BEGINNING FROM AND AFTER
21 DECEMBER 31, 2007 THROUGH DECEMBER 31, 2008.

22 (iv) TWENTY-THREE PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2008
23 THROUGH DECEMBER 31, 2009.

24 (v) TWENTY-TWO AND ONE-HALF PER CENT BEGINNING FROM AND AFTER
25 DECEMBER 31, 2009 THROUGH DECEMBER 31, 2010.

26 (vi) TWENTY-TWO PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2010
27 THROUGH DECEMBER 31, 2011.

28 (vii) TWENTY-ONE AND ONE-HALF PER CENT BEGINNING FROM AND AFTER
29 DECEMBER 31, 2011 THROUGH DECEMBER 31, 2012.

30 (viii) TWENTY-ONE PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2012
31 THROUGH DECEMBER 31, 2013.

32 (ix) TWENTY AND ONE-HALF PER CENT BEGINNING FROM AND AFTER
33 DECEMBER 31, 2013 THROUGH DECEMBER 31, 2014.

34 (x) TWENTY PER CENT BEGINNING FROM AND AFTER DECEMBER 31, 2014.

35 (c) If subdivision (b) is finally adjudicated to be invalid, for
36 secondary property tax purposes, five per cent.

37 Sec. 5. Laws 1996, chapter 344, section 12, as amended by Laws 2001,
38 chapter 370, section 8, is amended to read:

39 Sec. 12. Delayed repeal

40 Title 41, chapter 10, article 2, Arizona Revised Statutes, and sections
41 20-224.03, 43-1074 and 43-1161, Arizona Revised Statutes, are repealed from
42 and after June 30, ~~2006~~ 2011.

43 Sec. 6. Retroactivity

44 This act applies retroactively to from and after June 30, 2006.